

MAY 29 2007

67,108-210
Kogiantis 14-4-7-5REMARKS

Applicant thanks the Examiner for the remarks and analysis contained in the Office Action. Claim 5 has been cancelled. Claim 1 is amended to incorporate the subject matter of claims 5. Claims 9 and 15 are the other independent claims. Applicant respectfully requests reconsideration of this application.

There is no *prima facie* case of obviousness against any of Applicant's independent claims and this case should be allowed.

Claim 1 includes transmitting the long term information from a base station. The Examiner contends that section 0037 of the *Seo, et al.* reference teaches this but it does not. Paragraph 0037 clearly teaches that the UE (e.g., mobile station) transmits the CQI to the Node B (base station). The only thing transmitted by the base station in paragraph 0037 of the *Seo, et al.* reference is the data signal on the HS-DSCH. The base station in that reference does not transmit any long term information and, therefore, there is no *prima facie* case of obviousness against claim 1. Even if the proposed combination could be made, the result is not what the Examiner contends and is not the same as the claimed method. Claim 1 and all of its dependents are allowable.

Applicant respectfully submits that neither of claims 9 or 15 can be considered obvious. Applicant respectfully disagrees with the Examiner's conclusion that paragraphs 0258-0275 of the *Walton* reference teach using long term information for decoding short term information. There is nothing in those paragraphs that teaches or even suggest using long term information for determining which of a finite set of codes to use to decode short term information. Therefore,

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even if the proposed combination could be made, neither of claims 9 or 15 can be considered obvious because the result of the proposed combination is not the same as what is recited in Applicant's claims.

Applicant respectfully submits that this case is in condition for allowance.

Applicant requests a one month extension of time for responding to the Office Action. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds in the amount of \$120.00. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE

I hereby certify that this Response, relative to Application Serial No. 10/603,290, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on May 29, 2007.


David Gaskey

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